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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/821,930	04/12/2004	Dario Neri	ELLIS-0002-P02-C01	3681
23599 7590 07/31/2009 MILLEN, WHITE, ZELANO & BRANIGAN, P.C. 2200 CLARENDON BLVD. SUITE 1400 ARLINGTON, VA 22201				
EXAMINER PORTNER, VIRGINIA ALLEN				
ART UNIT		PAPER NUMBER		
1645				
NOTIFICATION DATE		DELIVERY MODE		
07/31/2009		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@mwzb.com

Interview Summary

Application No.

10/821,930

Applicant(s)

NERI ET AL.

Examiner

GINNY PORTNER

Art Unit

1645

All participants (applicant, applicant's representative, PTO personnel):

(1) GINNY PORTNER(PTO).

(3)Mr. Anthony J. Zelano, Reg. 27,969.

(2) SPE Robert Mondesi (PTO).

(4) _____.

Date of Interview: 27 July 2009.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal (copy given to: 1) ☐ applicant 2) ☐ applicant's representative

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.

If Yes, brief description: _____.

Claim(s) discussed: all of record.

Identification of prior art discussed: NA.

Agreement with respect to the claims f) ☐ was reached. g) ☒ was not reached. h) ☐ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: See Continuation Sheet.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN A NON-EXTENDABLE PERIOD OF THE LONGER OF ONE MONTH OR THIRTY DAYS FROM THIS INTERVIEW DATE, OR THE MAILING DATE OF THIS INTERVIEW SUMMARY FORM, WHICHEVER IS LATER, TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

/Ginny Portner/
Examiner, Art Unit 1645

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiner's Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.

Continuation of Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: Mr. Zelano contacted the examiner to discuss the Final Office Action dated June 29, 2009. Mr. Zelano referred to the previously submitted Lundak declaration in the parent application 10/321,558 and EMBL accession number AJ006113. The examiner stated that the complete nucleic acid coding sequence for the L19 antibody was never submitted in any of the applications related to this application, and only the VH, linker, and VL amino acid sequences had been provided in Figure 6, (amino acid) sequence listing and specification (SEQ ID NO 30, 31, and 32). The AJ006113 nucleic acid was created in EMBL in 1998, but was never disclosed in this application or any of the prior four applications to which 10/821,930 claims priority. The examiner pointed to SWISS-Prot Accession numbers, one of which is the L19 amino acid sequence, the amino acid sequence having been created in SWISS-Prot in 2007, and references Pini et al, Pini et al disclosing the L19 antibody in Table 1 of that reference in 1998. The examiner pointed to the fact that the Swiss-Prot accession number for L19 shows a linker of 14 amino acids, and all of the other antibodies listed in Table 1 of the Pini et al reference also have the same 14 amino acid sequence linker. The examiner pointed out the fact that the L19 antibody, after submission of Applicant's Deposit information, now has two different amino acid sequences, which can not exist for the same antibody in the same application. The submission of Applicant's Deposit information introduces inconsistencies within the disclosure. What the actual amino acid sequences are for the VH, Linker, VL sequences for L19, is no longer clear (L19 antibody shown in Figure 6 sequence clearly differs from the encoded amino acid sequence in the Deposit). The examiner pointed out the fact that Figure 6 still recites the original amino acid sequences that were presented upon filing the instant Application which clearly differs from the sequences based upon the Lundak Declarative Deposit. The examiner stated that only a single VH-linker-VL amino acid sequence for L19 should be in the instant Application. If the sequence in original Figure 6 is the correct sequence, then the entire Specification, sequence listing, and claims should reflect the same information for the L19 to be consistently defined throughout the disclosure. If the nucleic acid that encodes the amino acid sequence for the L19 contained in the Deposit referenced in the Lundak Declaration, is the correct amino acid sequence then this sequence should be the only sequence for L19 throughout the entire Application. Applicant was requested to address the extrinsic evidence showing L19 to have a 14 mer amino acid linker. Applicant is directed to consider the controlling decision in 27 USPQ2d 1662 Ex parte Maizel U.S. Patent and Trademark Office, Board of Patent Appeals and Interferences No. 91-2301 Decided May 27, 1992 On Reconsideration October 19, 1992, with respect to changing sequences within an application. Applicant stated they will address the inconsistencies, as well as the New Matter and the obviousness type double patenting rejections set forth in the Final Office Action dated June 29, 2009. Any amendments submitted After Final that raise new issues that require further consideration or search will not be entered.